

REMARKS

Claims 1-14 and 29-37 were previously presented. In this amendment, Claims 1, 7, 9, 11, 29, 30, and 37 have been amended; and no claims have been canceled. Accordingly, after entry of this amendment, Claims 1-14 and 29-37 will be presented in the application.

Of the above-referenced claims, Claims 1, 7, 9, 11, and 29 are independent. Accordingly, once patentability of those claims is established, all claims depending from them (including all other pending claims) are likewise allowable.

CLAIM OBJECTIONS

Claim 30 was objected to because of various informalities. As set forth below, Claim 30 has been amended to address those informalities.

CLAIM REJECTIONS 35 U.S.C. §102/103

Independent Claims 1, 7, 9, 11, and 29 have been rejected under 35 U.S.C. §102/103 as being anticipated/obvious, primarily in view of Ragot et al. (US 2003/0208829).

In view of the nature of the amendment to Claim 37 (to establish its dependency from Claim 1), it appears that the Examiner's rejection of Claim 37 on the basis of Onozawa is moot. Accordingly, Applicant has not further addressed that rejection herein.

In addition, if necessary, Applicant may be able to swear back of the Ragot reference, and thus remove it as a basis for rejection. In the meantime, Applicant submits the following alternative response.

Applicant has amended each of the independent claims to further define the relatively more elastic portion of the garment/shorts. Claim 1, exemplary of such amendments, recites in part, a second portion of relatively more elastic material "comprising a single undivided path of material within the first portion of the shorts, said path extending from the front of one thigh of a

first leg of said shorts, upward along the first leg, around the side of the shorts to the back of the shorts, across the back of the shorts, around the other side of the shorts, downward along the second leg to the front of the second thigh of said shorts."

As indicated in Applicant's original drawings and specification, the stretchable material within Applicant's assembled garment is shaped and positioned in various areas where the garment may be stressed during the wearer's movements. (page 15, lines 7) As now more specifically described in the claims, and as is apparent from comparing Ragot to Applicant's claims and application, those areas and other features provide an improvement over the teachings of Ragot.

For example, in contrast to Ragot's use of stretch material vertically along the side of each leg section 18 and along an upper annular zone 18 just below the waistband 12, Applicant's stretch material is generally positioned along a "plane" that enables the garment to stretch in the specific areas that normally would be stressed when a wearer moves from a crouched to an upright position. In other words, the positioning and shape of Applicant's elastic portion facilitates many athletic activities with a degree of comfort and style not found in Ragot. See, for example, Applicant's page 9, lines 17-19, and Figure 1E, as well as Applicant's specification at page 9, lines 1-2:

"Because the stretchable section 10 bisects or extends completely "across" the garment 5 in that manner, the entire garment can shift in response to the wearer's movements in ways not possible without the stretchable portion 10" (page 9, lines 3-6), thus "permitting increased flexibility and expansion of the garment and less resistance to the wearer in various directions during certain movements."

In this regard, the shape of the stretch material around the side and front of each leg section and about the back of the shorts permits increased flexibility in movements such as bending and/or twisting at the waist, or flexion of the leg, knee, and/or hip. (page 15, lines 11-20) This type of increased flexibility is not provided by Ragot's use of stretch material vertically along the side of each leg section and along an upper annular zone just below the waistband.

Ragot shortcomings in this and other regards are even more obvious from Ragot's Figs. 2 and 3. Those figures show the need for a central vertical seam just above the wearer's buttocks (Fig. 2, just below the lead line of element 12), which seam provides an additional area of potential irritation to the wearer's skin during vigorous exercise and activities. Figs. 2 and 3 both show Ragot's need for a separate, additional "stretch panel" 26 covering virtually the entire buttocks area of Ragot's garment. Among other things, Ragot's construction may increase the complexity and costs of materials and assembly of Ragot's garment as compared to Applicant's invention.

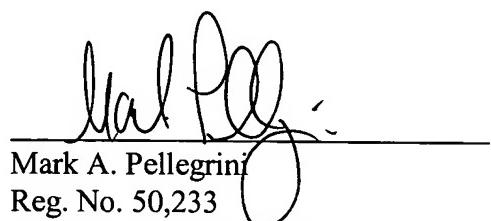
Ragot even teaches directly contrary to certain aspects of Applicant's invention: at par. 23, Ragot states that Ragot's swimsuit has panels/zones that are *not* elastic. These include at least Ragot's waistband 12, front panels 30, and panels 32 at the lower end of the rear of the suit. As noted above, Applicant's invention expressly includes elastic areas in the "front panels" areas of Applicant's garment. Moreover, in Applicant's preferred embodiment, virtually the entire garment has *some* degree of elasticity (the exception is that Applicant's preferred waistband is stiffened with an inserted material or other mechanism).

Accordingly, Applicant respectfully submits that the application is in condition for allowance, and timely notice of which is respectfully requested.

The Director is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 08-2624 associated with this response. If the Examiner has any questions regarding or would like to discuss any remaining or new issues regarding this communication the Examiner is invited to contact the undersigned representative of Applicant at (949) 718-6750.

Respectfully submitted

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